

Conditions Eased for E-Commerce Companies in Vietnam

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Decree No. 08/2018/ND-CP (“Decree 08”), issued by the Vietnamese government on January 15, 2018, and taking immediate effect, amends a number of existing decrees across a wide range of trade areas, with the aim of reducing administrative procedures for doing business. One area impacted by Decree 08 is e-commerce activities, which are governed by the Law on E-Transactions and its guiding Decree No. 52/2013/ND-CP, dated May 16, 2013 (“Decree 52”).

Under Decree 52, traders were required to have “appropriate functions or tasks” to set up e-commerce sales websites (Article 52) or websites providing e-commerce services (Article 54), or to conduct activities in rating e-commerce websites for reliability (Article 61). However, Decree 52 did not provide any definition or further explanation of what “appropriate functions or tasks” are. It could be interpreted that traders were required to have registered those specific business lines in their business registration certificates or establishment decisions.

Decree 08 has abolished such vague conditions. Instead, to set up the websites or conduct the activities mentioned above, companies must simply be legally established in accordance with the law, without any requirement on their business lines. These changes are aligned with Vietnamese enterprise laws as the Enterprise Registration Certificate no longer includes information on the business lines of the enterprise.

The conditions for granting a license to a company or organization to conduct rating and certification of personal information protection policies in e-commerce (Article 62 of Decree 52) have been significantly reduced. It is no longer required for the company registration or establishment decision to clearly state this activity; nor is it required to be organizationally and financially independent from the entities whose personal information protection policies are being rated and certified. There are now only two conditions to satisfy: (i) being legally established in compliance with Vietnamese law; and (ii) having rating criteria and processes that are public, transparent, and apply to all entities who are rated.

The Ministry of Industry and Trade is soon expected to revise its guidance circulars to reflect the changes above, and interested parties should keep abreast of such developments as they arise.

This summary is designed to provide general information only and is not offered as specific advice on any particular matter.

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